

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN JAMES CERVANTES,

Plaintiff,

vs.

BRYAN WAUGH, DENNIS BYRNE, and  
MICHAEL YOUNG,

Defendants.

**8:22CV160**

**ORDER**

After conferring with the plaintiff and counsel for the defendants;

IT IS ORDERED:

1) A settlement conference will be held before the undersigned magistrate judge on August 17, 2022 beginning at 10:00 a.m. On or before July 26, 2022, the parties shall contact my chambers at [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov) to advise whether the settlement conference will be held in my chambers in Lincoln, Nebraska, by Zoom, or a combination of both.

2) Unless excused by order of the court, the plaintiff shall attend the settlement conference, and either the defendants or representatives for the defendants with complete authority to negotiate and consummate a settlement shall attend the settlement conference. Any representative of a defendant must have the authority to commit the defendant to pay, in the representative's own discretion, the amount needed to settle the case.

3. If a party fails to comply with paragraph (2) of this order, the settlement conference will be cancelled and costs, attorney fees, and sanctions may be imposed by the court against the non-complying party, counsel for that party, or both.

4. Prior to the settlement conference, the parties must exchange settlement proposals so the parameters of settlement have been explored well in advance, and they shall discuss any non-negotiable items, including both monetary and nonmonetary terms.

If as a result of these discussions, a party believes settlement is not reasonably possible in this matter, he or she shall request a conference with the undersigned magistrate judge and opposing counsel, by telephone or otherwise, to determine whether the settlement conference should be canceled or postponed. To avoid unnecessarily expending time and money to attend or prepare for a settlement conference that is later canceled or postponed, any request for a conference to discuss cancellation or postponement must be made on or before August 8, 2022.

5. The parties shall submit a confidential settlement statement to the undersigned by email to [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov) no later than August 12, 2022, explaining:

- the facts, law, and damages at issue;
- the settlement negotiation history of the case, including a recitation of any specific demands and offers that have been conveyed; and
- any non-negotiable monetary or nonmonetary settlement terms, and the opposing party's position regarding those terms.

The court will review the confidential settlement statements and determine whether a telephone conference will be necessary in advance of the conference, or if the parties' respective settlement positions are so divergent that a settlement is not reasonably possible. Copies of these statements should NOT be served on the opposing party or counsel.

6. All statements made by the parties relating to the substance or merits of the case, whether written or oral, made for the first time during the settlement conference shall be deemed to be confidential and shall not be admissible in evidence for any reason in the trial of the case, should the case not settle. This provision does not preclude admissibility in other contexts, such as pursuing a motion for sanctions regarding the settlement conference.

Dated this 19th day of July, 2022.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge